

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KYLE SMITH,

Plaintiff,

v.

PROMARK PRODUCTS WEST, INC.,

and

ARIENS COMPANY,

Defendants.

CIVIL ACTION NO. 02-CV-2718

**ORDER**

AND NOW, this 26<sup>th</sup> day of January, 2005, upon consideration of Defendants' Motion *in Limine* to Preclude the Report, Opinion and Testimony of Plaintiff's Experts, Phillip Spergel, ED.D., Richard Colberg, and Barry Snyder (Docket No. 35), Plaintiff's response thereto (Docket No. 38) and the parties' supplemental reply briefs (Docket Nos. 42 and 47), it is hereby **ORDERED** that Defendants' motion is **DENIED, without prejudice.**

It is **FURTHER ORDERED** that Plaintiff's witness, Barry Snyder, is required to recreate, to the best of his abilities, a listing of any other cases in which he has testified as an expert at trial or by deposition within the preceding four years, in accordance with Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure. Failure to provide such information shall result in the preclusion of the witness' testimony.

It is **FURTHER ORDERED** that Plaintiff must provide Defendant with the data and other information considered by Phillip Spergel, ED.D., in the formation of his opinion. This shall include the tests administered, testing results and the applicable grading methodology,

pursuant to Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure.

BY THE COURT:

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RONALD L. BUCKWALTER, S.J.